

Chapter 5.08

LICENSING PROCEDURES

(76-7/60, 327-4/29, 372-3/34, 838-6/61, 904-6/62, 1605-10/70, 3603-6/03, 3751-11/06, 3817-4/09)

(Ordinance No. 3603 Repealed Chapter 5.10 – Enforcement of Title – 327-4/29, 766-7/60, 838-6/61, 904-6/62, 1842-6/73 and Repealed Chapter 5.12 – Exemptions to Provisions – 766-7/60, 1224-8/66)

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5.08.010 License--Required. There are imposed upon the businesses, trades, professions, callings and occupations specified in this title license taxes in the amounts hereinafter prescribed. It shall be unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from the city so to do or without complying with any and all applicable provisions of this title. (327-4/29, 766-7/60)

5.08.015 Evidence of doing business. When any person shall by use of signs, circulars, cards, telephone book or newspapers, advertise, hold out, or represent that the person is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that the person is in business in the City, and such person fails to deny by a sworn statement to the Finance Director that they are conducting business in the City, after being requested to do so by the Finance Director or authorized employees of the City, then these facts shall be considered prima facie evidence that the person is conducting a business in the City.

(3603-6/03, 3751-11/06)

5.08.020 Exemptions--Generally. Nothing in this title shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or the State of California from payment of such taxes as are herein prescribed. (327-4/29, 766-7/60, 3603-6/03)

(a) **Interstate commerce.** None of the license taxes provided for by this title shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Finance Director for an adjustment of the tax so that it shall not be discriminatory or unreasonable as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the average number of employees or estimated average number of employees and such other information as the Finance Director may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Finance Director shall then conduct an investigation, and after having first obtained the written approval of the City Attorney, subject to the approval of the City Council, shall fix as the license tax for the applicant, an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the Finance Director shall have the power to base the license tax upon the average number of employees or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this title. Should the Finance Director determine the average number of employees measure of license tax to be the proper basis, he or she may require the applicant to submit, either at the time of termination of applicant's business in the city or at the end of each three (3) month period, a sworn statement of the average number of employees and pay the amount of license tax therefor, provided that no additional license tax during any one (1) calendar year shall be required after the licensee shall have paid an amount equal to the annual license tax as prescribed in this title. (3603-6/03, 3751-11/06)

1. Any person claiming an exemption pursuant to this chapter shall file a verified statement with the Finance Director stating the facts upon which exemption is claimed. (3603-6/03, 3751-11/06)
2. The Finance Director shall, upon a proper showing contained in the verified statement, subject to approval of the City Council, issue a license to such person claiming exemption under this section without payment to the city of the license tax required by this title. (3603-6/03, 3751-11/06)
3. The Finance Director, after giving notice and a reasonable opportunity for hearing to a licensee, as provided in sections 5.08.240 and 5.08.250, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein. (3603-6/03, 3751-11/06)

- (b) Charitable and nonprofit organizations. As used in this title, “charitable” and “nonprofit organizations” shall include only religious, charitable, fraternal, educational, military, state, county or municipal organizations or associations as defined by *Internal Revenue Code* §501(c). The provisions of this chapter shall not be deemed or construed to require the payment of a license tax to conduct, manage or carry on any business, occupation or activity from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes or from which profit is not derived, either directly or indirectly, by any, person, nor shall any license tax be required for the conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects within the City whenever the receipts of any such entertainment, concert, exhibition or lecture are to be appropriated at any church or school or to any religious or benevolent purpose; nor shall any license tax be required for the conducting of any entertainment, dance, concert, exhibition or lecture by a religious, charitable, fraternal, educational, military, state, county, or municipal organizations or associations, or lecture are to be appropriated for the purpose and object for which such organization or association was formed and from which profit is not derived, either directly or indirectly, by any person, provided, however, that nothing in this section shall be deemed to exempt any such organization or association from complying with any of the provisions of this code requiring a permit from the City Council or other City department, or any commission or officer to conduct, manage or carry on any profession, trade calling or occupation. (3603-6/03)
- (c) Disabled veterans—Exempted when. Every honorably discharged soldier, sailor or marine of the United States, who is physically unable to obtain his or her livelihood by means of manual labor and who is a qualified voter of the State of California, shall have the right to hawk, peddle and vend any goods, wares, or merchandise owned by him, except spiritous, malt, vinous or other intoxicating beverages, without the payment of a license fee, subject, however, to the restrictions, limitations, regulations and conditions hereinafter set forth. Every applicant must comply with the following requirements before a license may be issued under the provisions of this chapter: (3603-6/03)
1. Every applicant must furnish a certificate of physical disability executed by a qualified surgeon of the United States Navy, Army, Marines, Air Force or U. S. Public Health Service, a certificate of honorable discharge from the United States Navy, Army, Marines, Air Force or U. S. Coast Guard, and a written recommendation from the representatives of the local posts of the American Legion and/or the Veterans of Foreign Wars. (3603-6/03)
 2. Every applicant must furnish two (2) identification photographs, one to be attached to the license issued to said applicant, and the other to be attached to the copy retained by the Finance Director. The applicant must also sign both copies of the license at the time of the issuance thereof. (3603-6/03, 3751-11/06)
 3. License issuance conditions. A license when issued is subject to the following conditions: (3603-6/03)
 - (a) It is nontransferable and for the exclusive use of the licensee named; (3603-6/03)
 - (b) Applicant’s identification photograph must be attached to the license at all times, and failure to comply herewith is grounds for revocation of the license and for refusing its renewal or the issuance of a new license thereafter; (3603-6/03)
 - (c) The licensee named must identify himself or herself by his or her signature and present a valid license whenever required to do so by a Police Officer or Finance Director; (3603-6/03, 3751-11/06)

- (d) Every license issued under the provisions of this section shall expire thirty (30) days from and after the date of issuance and a new license may thereafter be issued pursuant to the provisions of this section subject to review by the Finance Director; (3603-6/03, 3751-11/06)
- (e) It is unlawful for any person, other than the licensee named, to use or have in his or her possession any license issued pursuant to the provisions of this section; (3603-6/03)
- (f) It is unlawful for any person to purchase or transfer any license issued pursuant to the provisions of this section, or for any person to transfer or convey the certificates mentioned in Section 5.08.020(c)1 above, to any other person for the purpose of securing a license as herein provided. (3603-6/03)

(d) **Real Estate Agents.** Persons licensed by the California Department of Real Estate and having their license placed with a broker licensed by the California Department of Real Estate for purposes of supervision and control, as required by state law, shall not be subject to taxation under this title if their broker pays the tax in accordance with the provisions of this title and includes the real estate agent as one of its employees for purposes of any computation of the tax. (3817-4/09)

5.08.030 Conflict with other provisions--Tax payment. Persons not required to obtain a license prior to doing business within the city because of conflict with applicable statutes of the United States or of the State of California shall not be liable for payment of the tax imposed by this title. (327-4/29, 766-7/60, 3603-6/03)

5.08.040 Fee payment--Average number of employees. In the case of an application for license under the average number of employees classification, the applicant, shall pay the entire minimum fee plus the amount based on the average number of employees at the time the application for license is made. (766-7/60, 904-6/62, 1605-10/70, 3603-6/03)

5.08.050 License--Term. The fees for all licenses, whether under flat rate (annual) status or classifications A, B, C, and D, shall be payable in advance, and such license shall cover the period of one year from the first day of the month in which said license is issued. (766-7/60, 904-6/62, 1605-10/70)

5.08.060 Additional sums due before renewal. No renewal license shall be issued until the full amount due and payable, including any penalties or other unpaid fees or taxes levied by any City department have been paid in full. (766-7/60, 904-6/62, 1605-10/70, 3603-6/03, 3751-11/06)

5.08.065 Application, license process and renewal fees. A non-refundable processing fee shall be paid at the time of application and a non-refundable renewal fee shall be paid annually to renew the business license. These fees shall be established by resolution of the City Council. These fees shall be in addition to any other taxes or fees required by this title or required under any other chapter of this Code. (3603-6/03)

5.08.070 Fee payment--When ceasing business. In no event shall any portion of the fee be refundable in the event a business shall cease operation. (766-7/60, 904-6/62, 1605-10/70, 3603-6/03)

5.08.080 Fee payment--When due. The license fee payable under the average number of employees classification shall be due and payable in the case of an original license before the license is issued, and in the case of a renewal license, shall accompany the application for renewal. (766-7/60, 904-6/62, 1605-10/70, 3603-6/03)

5.08.090 Nontransferable--Amended for changed location. No license issued pursuant to this title shall be transferable; provided, that where a license issued authorizing a particular person to transact and carry on a business at a particular place or under a particular business name, such licensee may upon application therefor and paying a fee as adopted by Resolution of the City Council have the license amended to authorize the transacting and carrying on of such business

under said license at some other location to which the business is or is to be moved or business name. (766-7/60, 838-6/61, 1605-10/70, 3603-6/03)

5.08.100 Delinquent payment--Penalty. For failure to pay a license tax when due, the City Treasurer shall direct the Finance Director to add a penalty of ten percent (10%) of the license tax on the first day of each month after the due date thereof. (766-7/60, 3603-6/03, 3751-11/06)

5.08.110 Delinquent payment--Bars further license. No license shall knowingly be issued to any person who, at the time of making application for any license, is indebted to the city for any prior unpaid license fee or other fee, permit or invoice. (372-3/34, 838-6/61, 3603-6/03)

5.08.120 Bonds--Required when. Where, by the terms of this title, a bond is required to be furnished by any person accruing or applying for a license, such person shall, before the issuance to him of such license, deliver to the City Treasurer a bond, executed by any reliable surety company or by two (2) personal sureties, each of whom is the owner of property within the city, of the value of twice the amount of the penal sum of the bond. (327-4/29, 766-7/60, 3603-6/03)

5.08.130 Bond--Form. The conditions of the bond shall be in a form approved by the City Attorney. (327-4/29, 766-7/60, 3603-6/03)

5.08.140 Separate license--Branch establishments. A separate license must be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this title shall not be deemed to be separate places of business or branch establishments. (766-7/60)

5.08.150 Unexpired prior to ordinance. Where a license for revenue purposes has been issued to any business by the city and the tax paid therefore under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed for the business by this title shall not be payable until the expiration of the term of such unexpired license. (766-7/60)

5.08.160 Replacement--Fees. A duplicate license, license decal or license plate may be issued by the Finance Director to replace any license, license decal or license plate previously issued hereunder which has been lost or destroyed upon the licensee filing a statement of such fact, and at the time of filing such statement, paying to the City Treasurer a fee as adopted by Resolution of the City Council. (766-7/60, 838-6/61, 1605-10/70, 3603-6/03, 3751-11/06)

5.08.170 Posting and keeping. All licenses must be kept and posted in the following manner:

- (a) Any licensee transacting or carrying on business at a fixed place of business in the city shall keep the license posted in public view upon the premises where such business is carried on and have in or upon the licensee's business vehicles the business license or other form of license as designated by the Finance Director issued for such vehicle. (3603-6/03, 3751-11/06)
- (b) Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on such business and have in or upon each of the licensee's business vehicles, at the time of operation in this city, the business license or other form of license as designated by the Finance Director issued for such vehicles. (766-7/60, 838-6/61, 3603-6/03, 3751-11/06)

5.08.180 Application--Contents. Before any license is issued to any person, unless otherwise provided in this title, a written application by the applicant shall be made to the Finance Director, upon a form to be secured from the Finance Director and which application shall contain the following information: (3603-6/03, 3751-11/06)

- (a) The exact nature or kind of business, profession, show, exhibition, game, occupation or enterprise for which the license is requested;
- (b) The place where such business, profession, show, exhibition, game, occupation or enterprise is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residence of the owners of the same;
- (c) Any further information which the Finance Director may require to enable him or her to issue the type of license applied for; (3603-6/03, 3751-11/06)
- (d) In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and place of residence of those owning the business, profession, show, exhibition, game, occupation or enterprise.
(766-7/60)

5.08.200 Error by Finance Director --Correct amount due. In no case shall any mistake of the Finance Director in stating the amount of a license prevent or prejudice the collection by the city of what should be actually due from any person carrying on any business, profession, show, exhibition, game, occupation or enterprise subject to a license under the provisions of this title.
(766-7/60, 3603-6/03, 3751-11/06)

5.08.220 Statements not conclusive determination.

- (a) No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the Finance Director. (3603-6/03, 3751-11/06)
- (b) All licensees, applicants for license, and persons engaged in business in the city are required to permit an examination of such books and records for the purposes aforesaid.
- (c) The information furnished or secured pursuant to this section or Section 5.08.210 shall be confidential except that information which is deemed to be public records pursuant to state law. Any unauthorized disclosure or use of such information by any officer or employee of the city shall constitute a misdemeanor and such officer or employee shall be subject to the penalty provisions of this title in addition to any other penalties provided by law. (766-7/60, 3603-6/03)

5.08.230 Failure to file statement. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the Finance Director, such person fails to file a corrected statement, the Finance Director may determine the amount of license tax due from such person by means of such information as he or she may be able to obtain. (3603-6/03, 3751-11/06)

5.08.250 Additional power of Finance Director. In addition to all other powers conferred upon the Finance Director, he or she shall have the power, for good cause shown, to extend the time for filing any required sworn statement for a period not exceeding thirty (30) days, and in such case to waive any penalty that would otherwise have accrued in accordance with the City Charter and Municipal Code; and shall have the further power, with the consent of the City Council, to compromise and claim as to amount of license tax due. (766-7/60, 3603-6/03, 3751-11/06)

5.08.260 Deposit of fees, penalties and other moneys into general fund. All fees, penalties and other moneys received by the City Treasurer pursuant to the provisions of this title shall be deposited to the general fund of this city upon the same day or the business day next following the receipt of the same. (3603-6/03)

5.08.270 Renewal. The licensee shall renew the license annually by payment of the tax and renewal fee as set forth by Resolution of the City Council, regardless of whether or not a renewal notice is received by the licensee. (3603-6/03)

5.08.280 Examination of business place. The Finance Director, in the exercise of the duties imposed upon him or her hereunder, shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of Chapters 5.04 through 5.16 of this title have been complied with. (3603-6/03, 3751-11/06)

5.08.290 Officers' right of entry. The Finance Director, Code Enforcement Officers, and any Police Officer shall have the power and authority to enter, free of charge at any reasonable time, any place of business required to be licensed herein, and demand exhibition of the licensee's business license. Any person having such business license theretofore issued, in his, her or its possession or under his, her or its control, who willfully fails to exhibit same on demand, shall be guilty of a misdemeanor and subject to the penalties provided by this title. (3603-6/03, 3751-11/06)

5.08.300 License—Revocation—Suspension.

- (a) Any licensee who is conducting the business licensed in such a manner as to be detrimental to the public health, morals or safety of the general public or shall permit the violation of city ordinances, state laws or the laws of the United States of America within its licensed establishment shall be subject to having its license suspended or permanently revoked by the Finance Director. (3603-6/03, 3751-11/06)
- (b) The licensee shall be provided with written notice by first class mail, postage prepaid, of such revocation and/or suspension. (3603-6/03)

5.08.310 Appeal. Any person aggrieved by any decision of the Finance Director under Huntington Beach Municipal Code Chapters 5.04 – 5.16 may file an appeal with the City Clerk within fifteen (15) days of the date of mailing of the notice of revocation or suspension, and, at the time of such filing, pay a fee as adopted by Resolution of the City Council. (3603-6/03, 3751-11/06)

5.08.320 Appeal procedure.

- (a) The City Clerk shall schedule a hearing to be held within fifteen (15) days after the filing of the notice of appeal. (3603-6/03)
- (b) Notice of the date, time and place of the hearing shall be mailed, postage prepaid, at least ten (10) days prior thereto to the licensee at the address given in the notice of appeal, or if none is provided, to the address set forth in the permit application. (3603-6/03)
- (c) The City Council, or their designee, shall have authority to determine all questions raised on such appeal. The decision of the City Council or their designee shall be final. (3603-6/03)

5.08.330 Hearing—Licensee right. At such hearing, the licensee shall be entitled to be represented by counsel, and shall be given full opportunity to show cause why its license shall not be revoked or suspended. (3603-6/03)

5.08.340 License—Tax—A debt. The amount of any license tax and penalty imposed by the provisions of this title shall be deemed a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent license tax and penalties. (3603-6/03)

5.08.350 Remedies cumulative. All remedies prescribed hereunder shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof. (3603-6/03)

5.08.360 Zoning and other regulations. No license shall be issued to any person failing to present all appropriate zoning permits, or who has failed to comply with any other provision of this code. (3603-6/03)

5.08.370 Violation—Penalty. Any person violating this chapter shall be guilty of a MISDEMEANOR, punishable by a fine of one-thousand dollars (\$1,000) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. (3603-6/03)